THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO. 25986 OF 2005

Dated 6th December 2005

Between:

T.Poshetty

…Petitioner

And

The APSRTC, rep. by its Divisional Manager,

Adilabad Division, Adilabad & another.

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO. 25986 OF 2005

O R D E R:

The petitioner was employed as conductor, way back in the year 1987. On account of an injury suffered by him, he was being assigned the duties of Booking Clerk. A charge sheet was issued on 28.9.2002, by the second respondent, wherein it was alleged that the petitioner failed to intimate the factum of his ticket tray having been used by another person, as well as unauthorized sale of tickets therein. A departmental enquiry was conducted, and in his report, dated 5.2.2003, the enquiry officer held the charges leveled against the petitioner proved. Based on the same, the second respondent issued a show-cause notice of debit-cum-office order, dated 3.3.2003. He proposed three courses of action, *viz*, stoppage of annual increment for a period of two years, with cumulative effect, treatment of the period of suspension, as not on duty, and recovery of a sum of Rs.18,000/-. On a consideration of the explanation submitted by the petitioner, the second respondent imposed the punishment referred to above, through his, order dated 12.3.2003. Petitioner preferred an appeal before the Divisional Manager, the first respondent herein. The appeal was rejected on 5.7.2003. Hence, this writ petition.

Learned counsel for the petitioner submits that the second respondent was not justified in imposing three kinds of punishment, for the acts of misconduct resorted to by another employee. He submits that there is not even an allegation that the petitioner had misappropriated any amount, and that the first respondent ought to have granted necessary relief. Learned Standing Counsel, on the other hand, submits that the petitioner had an alternative remedy, by way of review to the Regional Manager, and it is impermissible in a writ petition to undertake revaluation of the matter, as an appellate authority.

On the basis of the report submitted by the enquiry officer, wherein it was held that the charges leveled against the petitioner were proved, the second respondent imposed three kinds of punishment against the petitioner, which were indicated above. The appeal preferred by the petitioner was dismissed. This Court cannot sit as an appellate authority, against the order passed by the first respondent. The Service Regulations provided for a review to the Regional Manager, in case, the appeal preferred by the employee is rejected, either its entirety, or in part. The Regional Manager would have the benefit of perusing the entire record and arriving at a proper conclusion. The two courses indicated against the petitioner, *viz*. stoppage of increment for a period of two years, with cumulative effect, and loss of pay for the period of suspension have already come into operation. The recovery commenced from September onwards. The plea of the petitioner that he is not liable for the said amount needs to be considered by the review authority.

For the foregoing reasons, the writ petition is disposed of, leaving it open to the petitioner to file a review, within a period of four weeks from today, before the Regional Manager. In case, the review is filed within four weeks, the further recovery from the salary of the petitioner, from the date of filing, shall stand stayed till the disposal of the review by the authority. There shall be no order as to costs.

6th December 2005

Note: Issue C.C. in three days.

(B/o)

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